



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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PLAISTOW POLICE ASSOCIATION :

Petitioner :

v. :

TOWN OF PLAISTOW, NEW HAMPSHIRE :

Respondent :

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CASE NO. P-0748:2

P-0748:3

P-0748:4

DECISION NO. 91-35

#### APPEARANCES

##### Representing Plaistow Police Association:

Joseph McKittrick, Esq., Counsel

##### Representing Town of Plaistow, New Hampshire:

Gary W. Wulf, Consultant

##### Also in attendance:

Lucia Cusimano, Dispatcher  
Charles Kellner, Town Manager  
Charles Myers, Sergeant  
Stephen Savage, Chief

#### BACKGROUND

These three (3) unfair labor charge cases filed by the Plaistow Police Association (Police) against the Town of Plaistow (Town) were filed the same day, June 8, 1990 alleging:

- (a) P-0748:2 Denial of Representation: Chief contacted Officer Randlett requesting to meet regarding an unspecified topic. Randlett believing the meeting was to be disciplinary arranged to include his attorney and the Association President. Just prior to the scheduled meeting, the Chief cancelled and rescheduled for the next day, but he later cancelled that meeting. Upon seeing Officer Randlett later on, Chief again asked for a meeting. When Randlett inquired whether or not the meeting was for disciplinary purposes, the Chief replied "No" but added that he objected to the presence of a union representative at that meeting.

Officer Randlett alone met with the Chief on January 11, 1990 at which time he was suspended from duty for one day without pay.

The Association alleged this action violated Randlett's right for representation, was against the Town's personnel policy, and could only have been done as a result of Randlett's participation as a founder of the union and a member of its bargaining team.

- (b) P-0748:3 Holiday Pay: The Town's personnel policy was to pay officers who worked a holiday, triple pay. They alleged that in attempt to intimidate, coerce or dominate these employees, the Town rescinded that portion of the pay plan relative to holiday pay without notification to the Association.
- (c) P-0748:4 Pay raise to employees upon completion of probationary period: The Town had a long standing policy practice coincident with its pay scale to give a 5% pay increase to each employee upon his or her completion of their probationary period.

They alleged that after the Association was certified two (2) officers having completed their probationary period were denied the 5% increase thereby unilaterally changing the employee working conditions without benefit of negotiations.

This unilateral change occurred immediately after certification of the unit.

Counsel for the Town answered that (1) P-0748:2: The meeting with Officer Randlett was merely to ascertain the facts surrounding his alleged outside employment, not for disciplinary matter which could not have been imposed prior to thorough investigation of facts. The discipline letter was issued the day after the meeting. Officer Randlett was allowed union representation at the appeal hearing held by the Chief and also at a subsequent hearing with the Town Manager. He stated that the Town Personnel Policy does not grant representation.

(2) P-0748:3: The triple time pay was instituted in December of '89 by the Highway Department who had no part-time capability. The Chief arranged schedules to minimize the use of full-time officers so as not to interfere with their employment of the holiday and for budgetary considerations. Quality part-time officers were available and willing to work on the holiday.

(3) P-0748:4: Subsequent to certification, there were no full-time officers who completed their probationary period. Three months prior to filing of a certification petition, the Town eliminated the practice of "end-of-probation" raises for all employees.

Hearing on all three cases were held on September 6, 1990 in the Board's office in Concord, New Hampshire.

FINDINGS OF FACT

CASE NO. P-0748:3

1. The Town's personnel plan originally adopted in 1980, with last revision in 1989, (Section X) allows for triple time and states: "Non-salaried employee required to work a holiday shall receive 'double time' for hours worked, in addition to eight (8) hours holiday pay."
2. Absent a CBA between the parties at issue, the personnel policies applied. Under Section 2, Par. K, the policy states:  
"Salaried employee: Those employees whose compensation is set at an annual rate without conversion to an hourly rate or to the number of hours worked. Salaried employees are exempt from overtime compensation."

Police Officers and Dispatchers are not salaried employees.

3. In absence of a negotiated contract, the Town' personnel policy applies to holidays. Prior to February, 1990, no regular officer was replaced by a part-time officer to avoid payment of overtime and holiday pay.
4. Since the complaint, regular assigned officers have been assigned and have received "double time" for hours worked on holidays plus an additional eight hours pay.
5. The Town after the certification of the unit rescinded the triple time for holidays. Pending completion of negotiations and ratification of a CBA between the parties, we find that past practices must prevail.
6. Prior to certification all full-time police officers scheduled to work on a holiday were paid in accordance with Section X of the Town's Personnel Policies.

CASE NO. P-0748:4

1. Employees upon commencement of employment were told by the Chief and Selectmen that after successfully completing of their probationary period, they would receive a 5% increase in addition to COLA increase.
2. All four employees in question received their COLA increase but were denied the "end-of-probation" increase.
3. Reason for denial of 5% increase was the formation of union. Prior to unionization, all employees had received the increase.
4. Employees affected were: Dispatchers: Lucia Cusimano and Sherrie Chevalier, and, Officers: Glen Miller and John Tetreault.

DECISION AND ORDER

After consideration of all evidence in all three cases, the Board ORDERS as follows:

Case No. P-0748:2 "DENIAL OF REPRESENTATION": (AKA Randlett Case)

As officer Randlett had been fully informed of the meeting and failed to appear the case is DISMISSED.

We find the Town of Plaistow guilty of unfair labor practices in Cases P-0748:3 and P-0748:4 and ORDER:

Case No. P-0748:3 "HOLIDAY PAY".

All regularly scheduled full-time police officers and/or dispatchers replaced by part-time officers and/or dispatchers on President's Day 1990 are to be made whole; i.e., paid the triple time they were entitled to for that day.

Case No. P-0748:4 "END OF PROBATION INCREASE":

The four employees had been advised of the 5% End of Probation increase and absent a CBA, in accordance with past practice, they are entitled to the increase while the issues were being negotiated. The employees named in the findings are awarded a retroactive 5% end of probation increase.

So Ordered.

Signed this 11th day of June, 1991.

  
EDWARD J. HASELTINE  
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Richard W. Roulx and E. Vincent Hall, present and voting. Also present, Executive Director, Evelyn C. LeBrun.